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A. Chapter 176L: Section 2. Risk Retention Groups/charter and license; application; plan of operation or feasibility study

Requirements for Risk Retention Group

A risk retention group shall be chartered and licensed under the laws of the Commonwealth to write only liability insurance pursuant to the provisions of this chapter and, except as provided elsewhere in this chapter, must comply with:

(1) all of the laws, rules, regulations and requirements applicable to such insurers chartered and licensed in the Commonwealth; and

(2) section 3 of this chapter to the extent such requirements of section 3 are not a limitation on laws, rules, regulations or requirements of the Commonwealth.

Submission of Plan of Operation / Feasibility Study

_____ Before it may offer insurance in any state, a risk retention group shall submit to the Commissioner for approval a plan of operation or a feasibility study.

Submission of Revisions

_____ In the event of any subsequent material change in any item of the plan of operation or feasibility study, the risk retention group shall submit an appropriate revision or amendment to the Commissioner for approval at least 10 working days prior to the requested effective date of any such change.

The group shall not offer any additional kinds of liability insurance, in the Commonwealth or in any other state, until the Commissioner approves a revision or amendment of such plan or study.

Application Requirements

At the time of filing its application for charter, the risk retention group shall provide to the Commissioner in summary form the following information:

_____ (1) the identity of the initial members of the group;

_____ (2) the identity of the persons who organized the group or who will provide administrative services or otherwise influence or control the activities of the group;

_____ (3) the amount and nature of initial capitalization;

_____ (4) the coverages to be afforded; and

_____ (5) the states in which the group intends to operate.

B. Chapter 176L: section 3. Out of state groups; submission of information to Commissioner; notice

Foreign Risk Retention Group Requirements

A risk retention group chartered and licensed in another state, which seeks to do business as a risk retention group in the Commonwealth shall comply with the laws of the Commonwealth, and shall satisfy the following requirements:

Required Submissions

Before offering insurance in the Commonwealth, a risk retention group shall submit to the Commissioner:

- _____ (1) a statement identifying each state in which the risk retention group is chartered and licensed as a liability insurance company, its charter date, its principal place of business, and such other information on its membership, as the Commissioner may require to verify that the risk retention group is qualified under the definition of "Risk retention group" in section one; and
- _____ (2) a copy of its plan of operations or feasibility study and revisions of or amendments to such plan or study submitted to the state in which the risk retention group is chartered and licensed; provided, however, that the provisions relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:
 - _____ (a) was defined in the Product Liability Risk Retention Act of 1981, (15 USC) before October 27, 1986; and
 - _____ (b) was offered before such date by any risk retention group which had been chartered and operating for not less than 3 years before such date.
- _____ The risk retention group shall submit a copy to the Commissioner of any subsequent revision or amendment to its plan of operation or feasibility study of this chapter at the same time that such revision is submitted to the licensing authority of its chartering state; and
- _____ (3) a statement of registration, for which a filing fee shall be determined pursuant to MGL c. 175, s. 14, which designates the Commissioner as its agent for the purpose of receiving service of legal process; and
- _____ (4) such other information as the Commissioner may require.

Additional Submission Requirements

Any risk retention group, which seeks to do business in the Commonwealth, shall submit to the Commissioner:

- _____ (1) a copy of the group's most recent financial statement submitted to the state in which the risk retention group is chartered and licensed which: (a) is certified by an independent public accountant and (b) contains a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a loss reserve specialist qualified under criteria established by the Commissioner;
- _____ (2) a copy of each examination of the risk retention group as certified by the Commissioner or public official conducting the examination;

_____ (3) upon request by the Commissioner, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group;

_____ (4) such information as may be required to verify its continuing qualification as a risk retention group under the definition of "Risk retention group" in section 1;

_____ (5) such other information as the Commissioner may require.

Tax Liability

_____ Each risk retention group shall be liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within the Commonwealth, and shall report to the Commissioner the net premiums written for risks resident or located within the Commonwealth.

Submission to Examination

Any risk retention group must submit to an examination by the Commissioner to determine its financial condition if the Commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within 60 days after a request by the Commissioner.

Any such examination shall be coordinated by the examining authorities to avoid unjustified repetition and conducted in an expeditious manner.

Contents of Application Forms

Every application form for insurance from a risk retention group, and every policy, certificate, contract or other document evidencing insurance coverage issued by or on behalf of a risk retention group shall, on its front and declaration pages, contain in 10 point type the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

Limitations on Coverages Provided

_____ The terms of any insurance policy issued by any risk retention group shall not provide, or be construed to provide, coverage prohibited generally by statutes of the Commonwealth or declared unlawful by the highest court of a state whose law applies to such policy.

C. Chapter 176L: Section 7. Statement submitted to Commissioner; designation of Commissioner as agent for service of process

Statement Requirements

A purchasing group which intends to do business in the Commonwealth shall, prior to doing business, submit to the Commissioner a statement which shall:

- _____ (1) identify the state in which the group is domiciled;
- _____ (2) identify all other states in which the group does or intends to do business;
- _____ (3) specify the lines and classifications of liability insurance which the purchasing group has purchased or intends to purchase;
- _____ (4) identify the insurance company or companies from which the group has purchased or intends to purchase its insurance and the domicile of such company;
- _____ (5) specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members who are resident or whose risks are located in the Commonwealth;
- _____ (6) identify the principal place of business of the purchasing group; and
- _____ (7) provide such other information as may be required by the Commissioner to verify that the purchasing group is qualified under the definition of "Purchasing Group" in section 1.

Notification of Changes

_____ A purchasing group shall notify the Commissioner of any changes in any of the items set forth above at least 10 business days prior to the date such change is to take effect.

Commissioner as Agent for Service of Process

_____ Except for limited instances which are specified in the section, the purchasing group shall register with and designate the Commissioner as its agent solely for the purpose of receiving service of legal process. A filing fee for the registration shall be determined pursuant to MGL c. 175, s. 14.

Additional Information Required

Each purchasing group that is required to submit information specified above shall also furnish such information as may be required by the Commissioner to:

- _____ (1) verify that the entity qualifies as a purchasing group;
- _____ (2) determine where the purchasing group is located;
- _____ (3) determine appropriate tax treatment; and

_____ (4) determine compliance with the provisions of the Liability Risk Retention Act, of and this chapter.

D. Chapter 176L: Section 12. License requirement

Licensing Standards

No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance in the Commonwealth from a risk retention group unless such person, firm, association or corporation is licensed in accordance with the applicable provisions of MGL c. 175.

No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance in the Commonwealth for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless such person, firm, association or corporation is licensed in accordance with the applicable provisions of MGL c. 175.

No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance coverage in the Commonwealth for any member of a purchasing group under a purchasing group's policy unless such person, firm, association or corporation is licensed in accordance with the applicable provisions of MGL c. 175.

For purposes of acting as an agent or broker for a risk retention group or purchasing group, any requirement of residence in the Commonwealth shall not apply.

Every person, firm, association or corporation licensed pursuant to the provisions of chapter one hundred and seventy-five, on business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by subsection (G) of section 3 in the case of a purchasing group and subsection (B) of section 8 in the case of a purchasing group.

Each licensee who has placed business with or on behalf of a risk retention group not chartered in the Commonwealth shall report to the Commissioner the premiums for direct business on residents or risk located within the Commonwealth.

Each licensee who places business with a risk retention group shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the Commissioner, as provided in MGL c. 176D, s. 5.

Policy Record Requirements

The policy records shall, for each policy and each kind of insurance provided thereunder, include the following:

_____ (a) the limit of liability;

- _____ (b) the time period covered;
- _____ (c) the effective date;
- _____ (d) the name of the risk retention group which issued the policy;
- _____ (e) the gross premium charged; and
- _____ (f) the amount of return premiums, if any.